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**Amended DECISION** of the Board of Selectmen (hereinafter the Board) on the motion from the Board for the property located at 145 Great Road, Acton, Massachusetts. Said property is shown on Acton Town Atlas Map F-4 Parcel 37.

This Decision is in response to a request from the Building Commissioner and supported by the applicant submitted to the Board on June 7, 2004 for an amendment to the Site Plan Special Permit/Special Permit.

The Board of Selectmen, after reviewing the request, finds this amendment is not significant to the public interest and that such amendment is not inconsistent with the purpose and intent of the Bylaw and with the terms of the original permit and, therefore, will not require a public hearing. Board members F. Dore' Hunter, Peter Ashton, Walter Foster and Robert Johnson were present throughout the proceedings.

The record of the proceedings and submissions upon which this permit is based may be referred to in the Office of the Town Clerk, or the Office of the Board.

Exhibit I

An IDC from the Building Commissioner dated June 7, 2004 requesting an amendment to the existing permit.

#### 1.0 **Findings and Conclusions**

Based upon its review of the exhibits and records of the proceedings, the Board found and concluded that:

- 1.1 The site is subject to Site Plan Special Permit # 07/26/00-372 revised and Special USE Permit #08/25/00-373 revised. Those decisions will remain in full force and effect except as herein modified and shown on the plan.
- 1.2 The Applicant and the Building Commissioner have worked together to resolve an alleged zoning violation where the Building Commissioner cited the applicant for not preventing vehicles from traveling contrary to the one-way traffic pattern as shown on the approved plan.
- 1.3 **Finding** # 5 is hereby deleted and replaced with the following;

The principal entrance and exit for customers to the development will be from Great Road. There will be a secondary access for service trucks, employee parking and future access to gifted land (finding #12 and condition #2.8) from Great Road, running behind the building and exiting on Esterbrook Road. The BOARD finds that the service driveway, if used as designed, will help to prevent conflicts between service truck traffic and customer traffic on site and will minimize traffic exiting the site and going east on Esterbrook. In order to insure the service road is used as designed (one-way) the applicant shall place an automated gate activated by electronic eye or push button. The gate shall be located on the Esterbrook end of the service road and as approved by the Building Commissioner and shall be so located to allow vehicles to turn around if they happen to be traveling east on Esterbrook Road trying to enter the mall. In order to mitigate any adverse impact of deliveries and trash pick-up the BOARD finds that it is necessary and appropriate to prohibit deliveries and trash pick-up before 6:30 AM or after 10:00 PM. This condition shall be included in all leases for space in the mall hereafter entered into. In addition, the BOARD requires additional signage at the entrance of the service road indicating that it is not a mall access, but can be used only by employees and deliveries or access as provided in condition 2.3.

- 1.4 **Conditions and Required Modifications to Revised Plan** # 2.3 is hereby deleted and replaced with the following;

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Deliveries including trash pickup shall be prohibited before 6:30 AM and after 10 PM. The lease of each tenant shall include a clause prohibiting deliveries and trash-pick-up before 6:30 AM and after 10 PM. A directional sign, not to exceed 12 square feet, shall be installed at the service entrance as provided in finding five. The gate shall be installed within 60 days of the date of this amendment and the expiration without appeal of any appeal period. The applicant shall also request the Board of Selectmen accept the traffic control signage into the "Traffic Rules and Orders" as provided in MGL C90 § 18 within 45 days of the date of this amendment and the expiration without appeal of any appeal period. The Building Commissioner as enforcement official of the Decision shall find that if the gate is operational and the applicant has requested the Board of Selectmen to accept the directional signage as aforesaid, any previous use of the rear service entrance/driveway are not zoning violations and any future use of the rear service entrance/driveway shall not be zoning violations so long as the Applicant maintains the gate, directional signage, and future leases contain limitations as to hours of usage, all as aforesaid.

Therefore, the Board voted to GRANT the requested amendment subject to the following conditions and limitations.

## 2.0 Conditions

- 2.1 This Decision applies only to the requested amendment. Other permits or approvals required by the Acton Zoning Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this Decision.

## 3.0 Appeals

Any person aggrieved by this Decision may appeal pursuant to the General Laws, Chapter 40A, Section 17 within 20 days after the filing of this Decision with the Acton Town Clerk.

Witness our hand this                      day of                      ,2004

\_\_\_\_\_  
F. Dore' Hunter, Chairman

I, Christine Joyce, hereby certify that this is a true copy of the Decision of the Board of Selectmen.

\_\_\_\_\_  
Christine Joyce, Recording Secretary

\_\_\_\_\_  
Date filed with Town Clerk

\_\_\_\_\_  
Edward Ellis, Town Clerk

TO WHOM IT MAY CONCERN: This is to certify that the 20 day appeal period on the Decision of Tashmoo Cove Realty, Inc. has passed and there have been no appeals made to this office.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Edward Ellis, Town Clerk



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Mar 15 at 8:00 PM

To Derrick Chin, Jeff Clymer, Scott Mutch

Gentlemen,

At 5:50 AM on Thursday March 12, 2015, a trash hauler was heard and seen servicing the two dumpsters at the rear of the Talbot's store at the Brookside Mall. As you are aware, this is a clear violation of the Special USE Permit #08/25/00-373 revised granted by the Town of Acton selectpersons and as confirmed by the Board of Appeals finding. As you are also aware, this is a continuation of the same violations that have existed for over 12 years at the site. After meeting with the mall's management company in November of last year and getting their assurances, I thought this type of violation would stop especially with the passage of over 4 months to halt the violations you knew were still taking place over most of that period. Please contact me to identify the measures the Town of Acton intends to undertake immediately to stop these violations? Please also contact me if I need to provide additional written material to the Town of Acton for you to take action in this matter.

Graham Knowland  
29 Esterbrook Road  
Acton, MA

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Recent

a new violation of trash pickup hours(2)

derrickchin@comcast.net

Today at 8:33 AM

To lynchc@urbanretail.com

CC planning@acton-ma.gov, Jeff Clymer, me

Cate,

Evidently, whoever is the trash hauler, yours or Talbot's, treats this violation lightly. Maybe, a \$1500 fine would be more effective.

derrick

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Roland Bartl

Today at 2:32 PM

To me

CC Planning Board, 'Lynch, Caitlin'

Hi, Graham:

This was forwarded to me. I am sorry to hear that once again this has happened. It must be terribly annoying. I think everybody who has been working on this matter more attentively for the last couple of years agrees that you should not be subjected to these early morning noise disruptions.

Ms. Lynch has notified the tenants more than once about the time rules for trash pick-up. I am sure she is annoyed, too, although she doesn't have to live through it. Unfortunately, neither she nor the Town know the offending party. That is a problem; we can't resort to collective punishment. However, in response to the latest occurrence, Ms. Lynch will provide us the names and contact information for the responsible individuals of each tenant entity; she has promised the data for later today. With that, Scott will send a letter to each tenant pointing out the trash pick-up rules and informing them of the fines that the Town can levy against violators of the zoning bylaw.

As you know, the Planning Board and Ms. Lynch are committed to put an end to this. They have agreed to a performance guarantee to secure among other items the installation of security/surveillance cameras. With that, the property management company will have time recorded footages of any violators, and then will be able to take specific action against specific violator. At that point, the Town can back up their efforts with zoning enforcement measures, if necessary. The target completion date for all items in the performance guarantee is 6/1/15, but I am fairly certain that Ms. Lynch will be able to get the cameras installed much sooner than that. I ask for your patience for just a bit longer until the cameras are up, and we had a chance to see and evaluate the results.

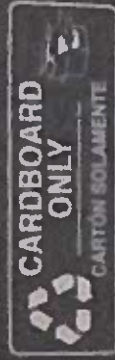
Thank you -

Roland Bartl, AICP  
Planning Director









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